IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLN.NO.1514 OF 2005

Sachin Ramesh Savla ..Applicant

Vs.

M/s.Rajdeep Relators
Pvt.Ltd. and Ors. ..Respondents

...

Mr.S.V.Marwadi for Applicant
Mr.Mahesh Menon & Co. for Respondent
Nos.1 to 5.

...

CORAM: A.M.KHANWILKAR,J.
DATE : DECEMBER 8, 2005

P.C.

1. Heard the counsel for the parties.

2. Perused the record. In my opinion, this Appeal should fail on the sole ground that the accused has rebutted the presumption by bringing on record that there was sufficient balance in its account to honour the cheque in question. Once that position occurs from the evidence on record, the inescapable conclusion is that offence under Section 138 of Negotiable Instruments Act, 1881 is not made out. Counsel for the Respondent has rightly placed reliance on the decision of the Apex Court in the case of **M/s.M.M.T.C.Ltd. and another Vs. M/s.Medchi Chemicals and Pharma (P) Ltd. and**

another reported in AIR 2002 SC 182 in para 18 in particular. The evidence on record of D.W.1 as well as the Statement of Account produced as Exhibit-D-6 and Exhibit-D-7 being the Statement of Accounts clearly indicate that on the relevant date when the cheque was presented for encashment on 9.6.2004, there was adequate balance to honour the cheque in question. This finding of fact reached by the Court below is unexceptional as that finding is supported by the evidence on record. Viewed in this perspective, no other aspect should detain this Court as the main ingredient under Section 138 of the Negotiable Instruments Act, is not fulfilled. Dismissed.

[A.M.KHANWILKAR, J.]